

## POLICE v. SIONE PUTA.

(Criminal Appeal : Brownlees C. J. Neiafu, 19th May, 1942.)  
 Indecent assault — Character of Prosecutrix — Leave to call evidence of  
 bad character refused — Prosecutrix not cross examined as to character —  
 Quantum of sentence. — Cap. 10 S. 102 — Cap 9 s. 3. 3.

The accused was convicted by the Magistrate of indecent assault and sentenced to imprisonment for 18 months. In the Magistrates Court the complainant was not cross examined as to her immoral character. The accused appealed on the following, amongst other, grounds :

- (1) The sentence was excessive.
- (2) The complainant was a person of general immoral character and the Court refused to allow a witness to be called to give evidence of this.

The appellant (Sione Puta) in person.

Mo'unga : for the Respondents.

BROWNLEES C. J. As regards the complaint that the defence was not permitted to bring evidence that the woman Fisi'i-'akau (The complainant) was a woman of general immoral character. Such evidence can only be given if she has previously had an opportunity of denying or explaining such acts of alleged immorality. Counsel for the defence never made such allegation in his cross examination, and thus Fisi'i'akau was given no opportunity of denying the allegations of immorality. Clearly, therefore, the Magistrate was quite right in refusing to admit such evidence. Indeed the Magistrate is to be complimented on his patience, for the Defence was merely obstructive and irksome, making no attempt to produce reliable witnesses.

The evidence of Fisi'i'akau is strongly supported by that of Sulunga and of Filise. Against that is the evidence of Sione Puta. The Court of Appeal finds that the accused was rightly convicted.

The appellant has a criminal record, but nevertheless the sentence of 18 months is excessive. Young women who meet men alone in the bush are themselves at fault, and by their action in so meeting encourage the man to become unduly familiar. In the circumstances a sentence of six months imprisonment is sufficient, and the sentence passed by the Magistrate is reduced accordingly.

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